



## Senate

General Assembly

**File No. 559**

January Session, 2015

Substitute Senate Bill No. 1063

*Senate, April 8, 2015*

The Committee on Environment reported through SEN. KENNEDY of the 12th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

***AN ACT CONCERNING THE APPLICATION OF PESTICIDES ON MUNICIPAL PARKS AND PLAYGROUNDS AND AUTHORIZING THE USE OF CERTAIN MICROBIALS.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 10-231a of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective from passage*):

3 As used in sections 10-231b to 10-231d, inclusive, [and section 19a-  
4 79a,] (1) "pesticide" means a fungicide used on plants, an insecticide, a  
5 herbicide or a rodenticide, but does not mean a sanitizer, disinfectant,  
6 antimicrobial agent or pesticide bait in a tamper-resistant container, (2)  
7 "lawn care pesticide" means a pesticide registered by the United States  
8 Environmental Protection Agency and labeled pursuant to the federal  
9 Insecticide, Fungicide and Rodenticide Act for use in lawn, garden and  
10 ornamental sites or areas. "Lawn care pesticide" does not include any:  
11 (A) Microbial pesticide or biochemical pesticide that is registered with  
12 the United States Environmental Protection Agency, (B) horticultural  
13 soap or oil that is registered with the United States Environmental  
14 Protection Agency and that does not contain any synthetic pesticide or

15 synergist, or (C) a pesticide classified by the United States  
16 Environmental Protection Agency as an exempt material under 40 CFR  
17 152.25, as amended from time to time, [and] (3) "integrated pest  
18 management" means use of all available pest control techniques,  
19 including judicious use of pesticides, when warranted, to maintain a  
20 pest population at or below an acceptable level, while decreasing the  
21 use of pesticides, (4) "microbial pesticide" means a pesticide that  
22 consists of a microorganism as the active ingredient, and (5)  
23 "biochemical pesticide" means a naturally occurring substance that  
24 controls pests by nontoxic mechanisms.

25       Sec. 2. (NEW) (*Effective October 1, 2015*) (a) As used in this section:

26       (1) "Pesticide" means a fungicide used on plants, an insecticide, a  
27 herbicide or a rodenticide but does not mean a sanitizer, disinfectant,  
28 antimicrobial agent or a pesticide bait in a tamper-proof container;

29       (2) "Microbial pesticide" means a pesticide that consists of a  
30 microorganism as the active ingredient;

31       (3) "Biochemical pesticide" means a naturally occurring substance  
32 that controls pests by nontoxic mechanisms;

33       (4) "Lawn care pesticide" means a pesticide registered by the United  
34 States Environmental Protection Agency and labeled pursuant to the  
35 federal Insecticide, Fungicide and Rodenticide Act for use in lawn,  
36 garden and ornamental sites or areas. "Lawn care pesticide" does not  
37 include (A) a microbial pesticide or biochemical pesticide that is  
38 registered with the United States Environmental Protection Agency,  
39 (B) a horticultural soap or oil that is registered with the United States  
40 Environmental Protection Agency and does not contain any synthetic  
41 pesticide or synergist, or (C) a pesticide classified by the United States  
42 Environmental Protection Agency as an exempt material pursuant to  
43 40 CFR 152.25, as amended from time to time;

44       (5) "Certified pesticide applicator" means a pesticide applicator with  
45 (A) supervisory certification under section 22a-54 of the general

46 statutes, or (B) operational certification under section 22a-54 of the  
47 general statutes, who operates under the direct supervision of a  
48 pesticide applicator with such supervisory certification;

49 (6) "Controlling authority" means the executive head of the  
50 municipal department responsible for the maintenance of a park, a  
51 playground, other than a playground located on the premises of a  
52 school, an athletic field or a municipal green, or such person's  
53 designee. "Controlling authority" does not include the executive head  
54 of any municipal department responsible for the maintenance of any  
55 school; and

56 (7) "Athletic field" means any field or open space used for sporting  
57 or sporting-related activities, but does not include a golf course or any  
58 such field or open space located on the premises of a school or college  
59 or that is used for professional sporting or sporting-related activities.

60 (b) No person other than a certified pesticide applicator shall apply  
61 pesticide within any park, playground, other than a playground  
62 located on the premises of a school, athletic field or municipal green,  
63 except a person other than a certified pesticide applicator may make an  
64 emergency application of pesticide to eliminate an immediate threat to  
65 human health, including, but not limited to, the elimination of  
66 mosquitoes, ticks and stinging insects, provided (1) the controlling  
67 authority determines such emergency application of pesticide to be  
68 necessary, (2) the controlling authority deems it impractical to obtain  
69 the services of a certified pesticide applicator, and (3) such emergency  
70 application of pesticide does not involve a restricted use pesticide, as  
71 defined in section 22a-47 of the general statutes.

72 (c) No person shall apply a lawn care pesticide on the grounds of  
73 any park, playground, other than a playground located on the  
74 premises of a school, athletic field or municipal green, except: (1) An  
75 emergency application of pesticide may be made to eliminate an  
76 immediate threat to human health, including, but not limited to, the  
77 elimination of mosquitoes, ticks and stinging insects, provided (A) the  
78 controlling authority determines such emergency application of

79 pesticide to be necessary, and (B) such emergency application of  
80 pesticide does not involve a restricted use pesticide, as defined in  
81 section 22a-47 of the general statutes; and (2) an application of a lawn  
82 care pesticide may be made on ornamental plants located on a  
83 municipal green.

84 (d) Prior to providing for any application of pesticide on the  
85 grounds of any park, playground, other than a playground located on  
86 the premises of a school, athletic field or municipal green, the  
87 controlling authority shall, within the existing budgetary resources  
88 available to the controlling authority, provide public notice of such  
89 application not later than twenty-four hours prior to such application  
90 of pesticide. Such public notice shall be posted on the Internet web site  
91 of the applicable municipality. If a controlling authority determines an  
92 emergency application of pesticide to be necessary pursuant to  
93 subsection (c) of this section, such notice shall be given as soon as  
94 practicable. Notice under this subsection shall include (1) the name of  
95 the active ingredient of the pesticide being applied, (2) the target pest,  
96 (3) the location of the application of pesticide on the grounds of the  
97 park, playground, other than a playground located on the premises of  
98 a school, athletic field or municipal green, and (4) the date or proposed  
99 date of the application of pesticide. A copy of each notice of such  
100 application of pesticide at a park, a playground, other than a  
101 playground located on the premises of a school, an athletic field or a  
102 municipal green shall be maintained by the controlling authority for a  
103 period of five years from the date of application of the pesticide and  
104 available to members of the public.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	10-231a
Sec. 2	<i>October 1, 2015</i>	New section

**ENV**      *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

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### ***OFA Fiscal Note***

***State Impact:*** None

***Municipal Impact:***

<b>Municipalities</b>	<b>Effect</b>	<b>FY 16 \$</b>	<b>FY 17 \$</b>
Various Municipalities	Cost	Potential Minimal	Potential Minimal

### ***Explanation***

The bill prohibits the nonemergency application of certain pesticides in municipal parks, athletic fields, and playgrounds. It also prohibits anyone other than certified pesticide applicators from applying pesticides in non-emergency situations.

There is a potential cost, expected to be minimal, to any municipality that does not have a certified pesticide applicator and must either: 1) pay for a current employee to obtain such certification; or 2) contract with a certified pesticide applicator.

As toxic free products used under the Integrated Pest Management plan recommended by the Environmental Protection Agency are available at similar costs<sup>1</sup> to those containing pesticides, this provision of the bill is not anticipated to result in a fiscal impact.

Additionally, the bill requires certain maintainers to post notice within 24 hours of certain pesticide applications. This also is not anticipated to result in a fiscal impact.

### ***The Out Years***

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<sup>1</sup><http://www.epa.gov/pesticides/ipm>

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

**OLR Bill Analysis****sSB 1063*****AN ACT CONCERNING THE APPLICATION OF PESTICIDES ON MUNICIPAL PARKS AND PLAYGROUNDS AND AUTHORIZING THE USE OF CERTAIN MICROBIALS.*****SUMMARY:**

This bill imposes restrictions on applying pesticide, including lawn care pesticide, to municipal athletic fields, greens, parks, and playgrounds, but not playgrounds on school premises. The bill establishes electronic public notice requirements for these applications.

The bill exempts certain products from the existing ban on nonemergency application of lawn care pesticide on the grounds of public or private preschools or schools with students in grade eight or lower. It also specifies that to be exempt from the law's pesticide application requirements for schools, sanitizers, disinfectants, antimicrobial agents, and pesticide baits must be in tamper-resistant containers.

Lastly, the bill makes a technical change, removing a reference to the day care center statutes.

EFFECTIVE DATE: October 1, 2015, except the lawn care pesticide exemption for school ground application takes effect upon passage.

**PESTICIDE USE AT ATHLETIC FIELDS, GREENS, PARKS, AND PLAYGROUNDS*****Non-Lawn Care Pesticide***

The bill generally prohibits the application of these pesticides at municipal athletic fields, greens, or playgrounds by anyone who is not a Department of Energy and Environmental Protection (DEEP)-certified pesticide applicator (see BACKGROUND). But anyone may apply pesticide in an emergency to eliminate an immediate human

health threat, such as from mosquitoes, ticks, and stinging insects, if:

1. the executive head of the municipal department responsible for the property's maintenance or his or her designee (the "controlling authority") finds the application is necessary,
2. he or she thinks it is impractical to obtain a certified applicator, and
3. the application does not involve a U.S. Environmental Protection Agency (EPA)- or DEEP-restricted use pesticide.

For purposes of applying pesticide on these municipal grounds, a pesticide is a fungicide used on plants, an insecticide, an herbicide, or a rodenticide, but not a sanitizer, disinfectant, antimicrobial agent, or pesticide bait in a tamper-proof container.

Under the bill, an "athletic field" includes any field or open space used for sports or sports-related activities, but not those (1) on school or college property or (2) used for professional sports.

### ***Lawn Care Pesticide***

The bill bans applying lawn care pesticide on the same municipal grounds, except to ornamental plants on municipal greens. It also permits applications in certain emergency situations.

For an emergency lawn care pesticide application to occur under the bill, there must be an immediate human health threat. The controlling authority must determine the emergency application is needed and the application cannot involve an EPA- or DEEP-restricted use pesticide.

For these municipal applications, lawn care pesticides include the same products as for applying lawn care pesticide on school grounds (see below).

### ***Notice***

Before pesticide, including a lawn care pesticide in certain situations, can be applied to a municipal athletic field, green, park, or



playground covered by the bill's requirements, the bill requires public notice of the application at least 24 hours in advance. But if the controlling authority determines an emergency application of lawn care pesticide is needed, the notice must be provided as soon as practicable.

The bill requires the notice to be made by the controlling authority within existing budgetary resources. The notice must be posted on the municipality's website and include the:

1. pesticide's active ingredient,
2. target pest, and
3. date or proposed date and location of the application.

Under the bill, the controlling authority must keep a copy of each notice for five years from the pesticide application date. All copies must be available to the public.

## **LAWN CARE PESTICIDE USE ON SCHOOL GROUNDS**

### ***Lawn Care Pesticides***

Current law prohibits the use of lawn care pesticide on the grounds of preschools and schools with students in grade eight or lower, absent a human health emergency. A "lawn care pesticide" is a pesticide registered by EPA and labeled according to federal law for use in lawns, gardens, and ornamental sites or areas.

The bill exempts the following products from this definition, thus allowing their application on the grounds of these schools:

1. EPA-registered microbial or biochemical pesticides,
2. horticultural soaps or oils registered with EPA and without any synthetic pesticide or synergist (enhancer of pesticide properties), and
3. certain pesticides classified by EPA as exempt material (see

BACKGROUND).

Under the bill, a “microbial pesticide” is a pesticide that has a microorganism as the active ingredient, and a “biochemical pesticide” is a naturally occurring substance that controls pests by nontoxic means.

### ***Non-Lawn Care Pesticides***

Under current law regarding pesticide application at schools, a “pesticide” is a fungicide used on plants, insecticide, herbicide, or rodenticide, but not a sanitizer, disinfectant, antimicrobial agent, or pesticide bait. The bill specifies that, to be excluded from the definition and exempt from the law’s pesticide application requirements for schools, the sanitizers, disinfectants, antimicrobial agents, and baits must be in tamper-resistant containers.

## **BACKGROUND**

### ***Pesticide Applicator Certification***

Under the Connecticut Pesticide Control Act (CGS § 22a-46 et seq.), anyone who uses or supervises the use of a restricted use pesticide in the state must have a private or commercial certificate or permit unless the use is directly supervised by a certified applicator.

### ***Exempt Pesticides***

Certain pesticides and pesticide classes do not need regulation under the federal Insecticide, Fungicide, and Rodenticide Act. They include:

1. pheromones and similar compounds used in pheromone traps;
2. preservatives for biological specimens (e.g., embalming fluids);
3. products consisting of food to attract pests;
4. natural cedar;

5. minimum-risk pesticides (i.e., containing certain active ingredients); and
6. treated articles or substances (40 CFR 152.25).

***Related Bills***

sHB 6897, File 184, reported favorably by the Children's Committee, contains a similar provision exempting certain products from the school pesticide application law's definition of lawn care pesticide.

sSB 366, reported favorably by the Environment Committee, contains an identical provision exempting certain products from the school pesticide application law's definition of lawn care pesticide.

sHB 6035, favorably reported by the Environment Committee, also contains an identical provision exempting certain products from the school pesticide application law's definition of lawn care pesticide.

**COMMITTEE ACTION**

Environment Committee

Joint Favorable Substitute

Yea 17      Nay 12      (03/20/2015)